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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,059	12/11/2003	Bharat B. Patel	210491US (4081-05200)	7842

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EXAMINER

FIGUEROA, JOHN J

ART UNIT PAPER NUMBER

1712

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/733,059

Applicant(s)

PATEL, BHARAT B.

Examiner

John J. Figueroa

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-18 and 20-31 is/are pending in the application.
- 4a) Of the above claim(s) 18 and 20-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date 20060706.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The 35 U.S.C. 102(b) rejection of claims 1 and 3-17 as anticipated by United States Patent Number (USPN) 6,030,928 to Stahl et al. (hereinafter 'Stahl') is maintained for the reason previously made of record in item 6 on page 3 of the Office Action of February 1, 2006 (hereinafter 'OA').
2. The 35 U.S.C. 102(b) rejection of claims 1 and 3-16 as anticipated by USPN 6,380,137 B1 to Heier et al., hereinafter 'Heier', (item 7 on page 5 of OA) has been withdrawn in view of Applicant's amendment to the claims filed April 27, 2006 (hereinafter 'Amendment').
3. The 35 U.S.C. 103(a) rejection of claims 1, 3, 5-11 and 15-16 as unpatentable over USPN 6,176,315 B1 to Reddy et al., hereinafter 'Reddy', and Stahl (item 9 on page 8 of OA) has been withdrawn in view of Amendment.

### ***Election/Restrictions***

4. Applicant's election with traverse of the Group I claims, claims 1 and 3-17, in the reply filed on April 27, 2006 has been acknowledged. The traversal is on the ground(s) that the search of the restricted claims would not provide a serious burden to the Examiner.

This is not found persuasive because the claims that are currently examined are drawn to a method of using a composition, whereas the claims that were not elected are instead drawn to a fluid composition (Group II, claims 18 and 20-31). As opposed to a method of using a composition in the well bore art, the composition may instead be present in any technological field involving polymeric fluids, thus providing an additional serious search burden on the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 1 and claims 3-17 (which depend therefrom) are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Independent claim 1 has been amended to recite "from *greater than about 80%* to about 95 of [AMPS] ... or an alkali salt thereof," "from about 3% to *less than about 10%* of N-vinyl-2-pyrrolidone" and "from about 3% to *less than about 10%* of acrylamide." [Emphasis added] Although Applicant has support in the examples in the specification for the recited end points, there is no support in the specification for the

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italicized portions of the cited phrases of these ranges. That is, there is no support for "greater than about 80%" of AMPS or "less than about 10%" of NVP and acrylamide.

Accordingly, Applicant has incorporated new matter into these claim ranges.

### ***Response to Arguments***

#### ***The 35 U.S.C. 102 Rejection over Stahl (item 6 on page 3 of OA)***

5. Applicant's arguments regarding the 35 U.S.C. 102 (b) rejection of claims 1 and 3-17 as anticipated by Stahl have been fully considered but are deemed unpersuasive.

In response to Applicant's arguments that Stahl does not teach the specific ranges for the terpolymer components that are recited in the amended claims, Examiner respectfully draws Applicant's attention to the bottom of page 3 of OA (citing column 132, lines 1-31 of Stahl) stating that Stahl discloses a drilling fluid containing a water-soluble polymer additive that has the same terpolymer components. The components of the terpolymer composition in Stahl's drilling fluid have a range of about 10 to about 80 weight percent for AMPS or a salt thereof, about 10 to about 80 weight percent of NVP and about 10 to 55 weight percent of acrylamide.

Thus, the claims as amended encompass this terpolymer composition component of Stahl's drilling fluid. The rejection is, therefore, maintained.

*The 35 U.S.C. 102 Rejection over Heier (item 7 on page 5 of OA)*

6. Applicant's arguments regarding the 35 U.S.C. 102 (b) rejection as anticipated by Heier have been considered but have become moot due to the withdrawal of the rejection in view of Amendment.

*The 35 U.S.C. 103 Rejection over Reddy and Stahl (item 9 on page 8 of OA)*

7. Applicant's arguments regarding the 35 U.S.C. 102 (b) rejection as unpatentable Reddy and Stahl have been considered but have become moot due to the withdrawal of the rejection in view of Amendment.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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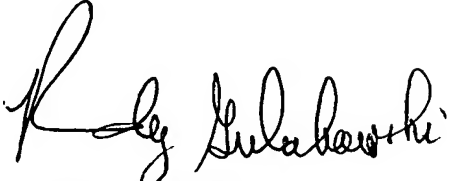
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Figueroa whose telephone number is (571) 272-8916. The examiner can normally be reached on Mon-Thurs & alt. Fri 8:00-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJF/RAG

  
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